



Legislative Bulletin.....September 8, 2011

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H.R. 2218—Empowering Parents through Quality Charter Schools Act

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Order of Business: The bill expected to be considered under an undetermined rule on Thursday, September 8, 2011.

Background: On January 8, 2002, President Bush signed the No Child Left Behind Act of 2001 significantly amending the Elementary and Secondary Education Act [ESEA] and reauthorizing and creating numerous education-related programs. The majority of ESEA’s provisions expired in 2007, and no reauthorization of education programs has passed Congress since that expiration.

This Congress, the House Committee on Education and the Workforce has adopted a step by step process to amending and reauthorizing the ESEA, instead of reporting a single, large reauthorization bill. To date, the Committee has reported three bills relating to the reauthorization, and it has indicated that it will consider at least one additional bill this Congress before concluding the process.

The first bill reported by the Committee, H.R. 1891: the Setting New Priorities in Education Spending Act, repeals the authorizations of 42 wasteful education programs. The third bill, H.R. 2445: the State and Local Funding Flexibility Act, increases the flexibility of states and school districts to use federal funding on the programs most needed in their jurisdiction. The second bill, H.R. 2218: the Empowering Parents through Quality Charter Schools Act, is the focus of this legislative bulletin.

Summary: H.R. 2218 reforms and reauthorizes charter school support programs for FY 2012 – FY 2017. The Charter School Program supports the formation of new charter schools through competitive grants to state educational agencies, governors, or a state charter school board. Two additional programs, the Charter School Credit Enhancement Program and Per-Pupil Facilities Aid Program, provide assistance to charter schools to acquire and renovate facilities. The Credit Enhancement Program provides that support through competitive grants to entities who guarantee or insure charter school facility financing and assist with locating and encouraging additional lending sources. The Per-Pupil Facilities Aid Program provides competitive grants to

assist states in establishing or enhancing a per-pupil aid program to provide financing for charter school facilities.

NCLB authorized \$300 million for the Charter School Program in FY 2002 and such sums as necessary for FYs 2003 – 2007 (funding for the Per-Pupil Facilities Aid Program was authorized within that provision). NCLB further authorized \$150 million for the Credit Enhancement Program in FY 2002 and such sums as necessary in FY 2003. NCLB’s total authorization for charter school support in FY 2002 was \$450 million. Actual appropriations levels for the combined programs in FYs 2002 – FY 2011 are below:

Charter School Programs Funding

| | | | |
|----------------|----------------------|----------------|----------------------|
| <i>FY 2002</i> | \$200 Million | <i>FY 2007</i> | \$251 Million |
| <i>FY 2003</i> | \$224 Million | <i>FY 2008</i> | \$211 Million |
| <i>FY 2004</i> | \$256 Million | <i>FY 2009</i> | \$216 Million |
| <i>FY 2005</i> | \$254 Million | <i>FY 2010</i> | \$256 Million |
| <i>FY 2006</i> | \$251 Million | <i>FY 2011</i> | \$256 Million |

H.R. 2218 consolidates the Credit Enhancement Program’s appropriation into that of the Charter School Program and reforms the Department of Education’s (DoE) support for charter schools. The streamlined program provides for three separate initiatives: grants to support high-quality charter schools, charter school facilities assistance, and national activities by the DoE. H.R. 2218 provides a total authorization level for the consolidated programs of \$300 million for FYs 2012 – 2017 (extended to 2018 through the provisions of the General Education Provisions Act). Funds appropriated under that authorization are sub-allocated to the three separate initiatives by formula. 15% of the appropriation would be allocated to charter school facilities assistance, up to 5% would be available to the DoE for national activities, and the remainder would be used for grants supporting high-quality charter schools.

Charter School Program: H.R. 2218 reauthorizes the Charter School Program’s competitive grants to state educational agencies to support new charter school development and provide technical assistance, but expands the list of eligible applicants for such grants to include governors and a state’s charter school board. It also expands the approved uses of grant funds to include replication of high-quality charter school models and expansion of high-quality charter schools, and extends the length of grants from three years to five years. Grants will be prioritized for eligible applicants from states that do not place limitations on the number of charter schools or their number of students, that ensure equitable financing for charter schools as compared to traditional schools, and that use best practices developed by charter schools to improve other struggling schools. Grantees must provide assurances that charter schools will retain a high degree of autonomy, meet all applicable federal requirements, and be subject to improved monitoring including through the use of performance data.

Facilities Financing Assistance: H.R. 2218 also provides financing assistance to charter schools to acquire, construct or renovate facilities. This is primarily provided through reauthorization of the Credit Enhancement Program, which requires the DoE to award grants to eligible applicants to develop innovative methods of enhancing the availability of loans or bond financing for

charter school facilities. Eligible applicants include government entities, private non-profit entities, or a consortium of both. Applicants are required to show how the proposed activities will maximize the amount of private capital relative to the amount of government funds used and provide funds to charter schools at terms more favorable otherwise available.

After awarding grants under the Credit Enhancement Program, the DoE is authorized to use any funds remaining from the sub-allocation of funds for facilities assistance on activities under the Per-Pupil Facilities Aid Program. The program provides cost-sharing grants to states to establish or enhance a per-pupil facilities aid program which provides funds on a per-pupil basis to charter schools for facility needs.

National Activities: The final portion of H.R. 2218 provides for national activities by the DoE in support of charter schools. Of the funds sub-allocated for national activities, no less than 50% would be used to provide competitive grants to entities attempting to open a charter school in states that did not apply for or receive a grant for development support of high-quality charter schools. Funds remaining would be used by DoE to evaluate the impact of the charter school program and disseminate best practices and technical assistance.

Conservative Concerns: Some conservatives may argue that Congress has no enumerated power to set education policy and oppose continuing to extend the federal government's role in any aspect of K-12 education. Other conservatives might argue that the federal government will most likely play a role in K-12 education for the foreseeable future and that conservatives should work to ensure effective innovations such as charter schools that expand school choice receive a share of the federal government's education support.

Committee Action: H.R. 2218 was introduced by Rep. Duncan Hunter (R-CA) on June 16, 2011 and was referred to the Committee on Education and the Workforce. H.R. 2218 was amended by the Committee on June 22, 2011 and reported out on July 22, 2011.

Administration Position: A Statement of Administration Policy has not yet been released.

Cost to Taxpayers: According to CBO, "implementing this bill would cost about \$1 billion over the 2012-2016 period, assuming appropriation of the authorized amounts." Additional authorized amounts would be spent after 2016, and the legislation would result in a total authorization level over 7 years of \$2.1 billion, subject to appropriation.

Does the Bill Expand the Size and Scope of the Federal Government?: The legislation reduces the total authorization level for charter school programs from the previous level of \$450 million annually to \$300 million annually. In this respect, the legislation decreases the size of the federal government. However, the legislation also provides an authorization level moderately above the programs' appropriations levels in recent years, which may lead to higher future appropriations and an expanded federal government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to CBO, "H.R. 2218 contains no intergovernmental or private-sector

mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.”

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: According to the [Committee Report](#):

“H.R. 2218 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of House Rule XXI.”

Constitutional Authority: As provided by the legislation’s sponsor, Rep. Duncan Hunter (R-CA):

“Congress has the power to enact this legislation pursuant to the following: Article I, section 8 of the Constitution of the United States.”

Outside Organizations (as of press time):

Supporting:

U.S. Chamber of Commerce

Business Roundtable

Chiefs for Change

KIPP

Council for Exceptional Children

Charter School Lenders’ Coalition

Democrats for Education Reform

National Association of Charter School Authorizers

National Alliance for Public Charter Schools

National Association of State Directors of Special Education

NewSchools Venture Fund

California Charter Schools Association

Texas Charter Schools Association

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